IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 1303 OF 2005

IN

SUMMONS FOR JUDGMENT NO.51 OF 2004

Dinesh Amarlal Jaising ....**Plffs.**

vs.

Shri Rishi R. Tejuja
and anr. .....**Defnds.**

B.S. Chandnani for the plaintiffs.

Himanshu V. Kode for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 22ND AUGUST 2005.

P.C. :

1. By consent of the parties motion made absolute in terms of prayer clause (a).

2. By consent of the parties Summons for Judgment restored and taken up for hearing and final disposal.

3. The plaintiff proceeds on the basis of

denial. The two defences which are raised by the defendant in the present case is that the copy of the bill of exchange served on him did not contain the signature of the acceptor thereon. I have perused the original bill of exchange. The original bill of exchange is taken on record which indicates that the same is signed by the defendant no.2 as a acceptor. The next contention is that the bill of exchange is actually drawn by the company and not by defendant no.1 and he was merely a employee of a company known as Regions Broking and Regions Broking is a sub-broker. According to the defendant thus the said amount is due and payable by the defendant which is Regions Broking. He relies upon a statement of account to show that part payments are made by Region Broking. I do not find any merits in the contention raised by the learned counsel for the defendant. There is a presumption of consideration from the plaintiff to the defendant under the said bill of exchange. In that view of the matter there is no substance in

the defence raised.

4. However with a view to grant an opportunity to defend the suit I directed the defendant to deposit a sum of Rs.1,50,000/- within a period of 6 weeks from today. If the defendant fails to deposit the amount as aforestated the plaintiff will be entitled to the decree. If the amount is paid as aforestated, then suit is transferred to the list of Commercial Causes. Written statement or points of defence to be filed four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes. The amount to be invested by the Prothonotary and Senior Master in fixed deposit of any nationalised bank initially for a period of three years and renew the same from time to time till further orders from this court.

5. Summons for Judgment as well as suit

disposed off accordingly.

sd/-

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